UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

2008 JUN -2 AM 11:02

UNITED STATES OF AMERICA, Plaintiff, v. **Oscar MORALES-Barajas,** Defendant	Magistrate Docket No. '08 MJ 1722 KNH COMPLAINT FOR VIOLATION OF: Title 8, U.S.C., Section 1326 Deported Alien Found in the United States

The undersigned complainant, being duly sworn, states:

On or about **May 30, 2008** within the Southern District of California, defendant, **Oscar MORALES-Barajas,** an alien, who previously had been excluded, deported and removed from the United States to **Mexico**, was found in the United States, without the Attorney General or his designated successor, the Secretary of the Department of Homeland Security (Title 6, United States Code, Sections 202(3) and (4), and 557), having expressly consented to the defendant's reapplication for admission into the United States; in violation of Title 8 United States Code, Section 1326.

And the complainant further states that this complaint is based on the attached statement of facts, which is incorporated herein by reference.

SIGNATURE OF COMPLAINANT
James Trombley
Senior Patrol Agent

SWORN TO BEFORE ME AND SUBSCRIBED IN MY PRESENCE, THIS 2nd DAY OF JUNE, 2008

Leo S. Papas
UNITED STATES MAGISTRATE JUDGE

CONTINUATION OF COMPLAINT:
Oscar MORALES-Barajas

PROBABLE CAUSE STATEMENT

I declare under the penalty of perjury that the following statement is true and correct:

On May 30, 2008 at approximately 11:00 a.m., Supervisory Border Patrol Agent O. Alvarez responded to a report of approximately ten individuals attempting to enter illegally near an area known as "Whiskey 3." This area is approximately one mile west of the San Ysidro, California Port of Entry and ten yards north of the United States/Mexico International Boundary. Four individuals were quickly apprehended and two turned back south into Mexico, leaving several at large in the area. Upon arriving to the area, Agent Alvarez was advised by two pedestrians that some of the suspected undocumented aliens in question had climbed a tree and another one was hiding in a white van that was parked in the southwest corner of a pay parking lot.

Border Patrol Agent R. Radoff, who also responded to the scene, checked the tree and found four individuals hiding in the tree branches. Agent Alvarez looked inside the white van and saw an individual laying face down inside the van. Agent Alvarez observed that the middle row of seats in the van had been removed. Agent Alvarez knocked on the window and identified himself as Border Patrol Agent in an attempt to get him to open the door. The individual was not responding. Agent Alvarez noticed the individual's pants were ripped, a common occurrence when illegal aliens attempt to climb over the chain link fence that leads into the pay parking lot.

Based on the citizen's report that an individual entered the van after having jumped the fence and the fact that all windows were closed and the engine was turned off on a hot day, Agent Alvarez opened the unlocked door to check on the well being of the individual and to investigate the report of possible illegal aliens entering the vehicle. After opening the door, Agent Alvarez identified himself again as a Border Patrol Agent with still no response from the individual. Agent Alvarez then entered the vehicle to see if the person was breathing and nudged the individual several times while identifying himself as Border Patrol Agent. After several nudges the person began to get up. Agent Alvarez questioned the individual as to his citizenship. The individual, later identified as defendant **Oscar MORALES-Barajas** stated that he was a citizen and national of Mexico without any immigration documents that allowed him to enter or remain in the United States legally. At approximately 11:20 a.m., Agent Alvarez placed the defendant under arrest and arranged for transportation to the Imperial Beach Border Patrol Station for processing.

Routine record checks of the defendant revealed a criminal and immigration history. The defendant's record was determined by a comparison of his criminal record and the defendant's current fingerprint card. Official immigration records of the Department of Homeland Security revealed the defendant was previously deported to **Mexico** on **April 15, 2008** through **San Ysidro, California.** These same records show that the defendant has not applied for permission from the Attorney General of the United States or his designated successor, the Secretary of the Department of Homeland Security, to return to the United States after being removed.

The defendant was advised of his Miranda rights and was willing to make a statement without an attorney present. He freely admitted to being a citizen and national of Mexico without the proper documentation to be in the United States legally.

5/31/08
1:30 pm

CONTINUATION OF COMPLAINT:
Oscar MORALES-Barajas

Executed on May 31, 2008 at 9:00 a.m.

Carlos R. Chavez
Senior Patrol Agent

On the basis of the facts presented in the probable cause statement consisting of **2** page(s), I find probable cause to believe that the defendant named in this probable cause statement committed the offense on **05/30/2008**, in violation of Title **8**, United States Code, Section **1326**.

Leo S. Papas
United States Magistrate Judge

5/31/08 - 1130 am
Date/Time